

**§ 276.5 Legislative history.**

Discussion of this legislation is contained in the reports by the Senate Committee on Public Works and the House Committee on Public Works and Transportation which accompanied S. 3823, the Water Resources Development Act of 1976 (Pub. L. 94-587). These reports make clear that Congress intended to encourage local communities to assume responsibility and accelerate local cooperation in reducing urban flooding dangers without committing the United States to any future Federal expenditure. The Senate Committee report noted that some communities might be reluctant to undertake compatible local flood control measures for fear that the local work would jeopardize the potentially favorable cost-benefit ratio of a prospective Federal project. The Act authorizes establishing a procedure for certification of certain local improvements undertaken for the purpose of flood control. Cost assignable to that part of the local improvement that would constitute an integral part of a prospective Federal plan would be eligible to be recommended for credit toward required local cooperation. The Senate Committee report specifically stated that:

\* \* \* This flexibility should in no way be interpreted as a Federal assurance of late approval of any project. While it is in no way a Federal commitment, this provision assures the city that the work it undertakes, once certified, will not be removed from the cost-benefit analysis, and it assures the city that such local work will be credited toward the local costs of cooperation, should the project be later authorized. This will not, however, qualify the community for any cash refunds. If the local costs on such certified work exceed the local share, when later computed, the local government must assume that extra cost. \* \* \*

**§ 276.6 General policy.**

(a) This provision will be applied only at locations where a congressionally authorized study is underway or where the study report has been forwarded for Executive Branch review or for consideration by Congress. If a study is underway, the District Engineer must have held the final public meeting and filed a draft EIS with CEQ prior to certification. Certification will

be in response to a specific request from a State, city, municipality or public agency that is the prospective local sponsoring agency for the contemplated Federal plan under study.

(b) Work eligible for certification shall be limited to that part of the local improvement directly related to a flood control purpose.

(c) Only local work commenced after certification shall be eligible for certification except for local engineering work noted below in § 276.6(e). The work proposed for certification must meet the following requirements: The work will be separately useful even if the Federal Government does not authorize and construct the contemplated project; the work to be accomplished by the non-Federal entity will not create a potential hazard; certification of the proposal will be in the general public interest.

(d) Costs assigned to that part of the local improvement that would constitute an integral part of the prospective recommended Federal plan can be included for credit toward required local cooperation. The amount creditable shall equal the expenditures made by the non-Federal entity for work that would have been accomplished at Federal expense if the entire project were carried out by the Corps of Engineers. However, credit will not exceed the amount the District Engineer considers a reasonable estimate of the reduction in Federal expenditures resulting from the local work. Costs of subsequent maintenance will not be credited. In the event that the local construction work is financed by a Federal non-reimbursable grant or Federal funds from other Federal sources, the amount creditable against future local cooperation requirements shall be reduced by a commensurate amount. However, there will be no corresponding reduction in the benefits credited for the local improvement.

(e) Local interests are responsible for developing all necessary engineering plans and specifications for the work they propose to undertake. However, those non-Federal engineering costs and overhead costs directly attributable to the creditable part of local work may be included in the amount credited.